

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PAUL HABERMANN and
RUDOLF BENDER

Appeal No. 2004-1936
Application 09/664,326

ORDER DISMISSING APPEAL

MAILED

AUG 18 2005

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Before FLEMING, Chief Administrative Patent Judge,
HARKCOM, Vice Chief Administrative Patent Judge, and
MILLS, Administrative Patent Judge.

Per curiam.

On July 15, 2005, counsel for the appellant filed, among other documents, a Request for Continued Examination (RCE) under 37 CFR § 1.114. Pursuant to the notice entitled "Request for Continued Examination Practice and Changes to Provisional Application Practice," 65 Fed. Reg. 50092, 50095 (Aug. 16, 2000), and the provisions of 37 CFR § 1.114(d), a request for continued examination under 37 CFR § 1.114 filed after appeal has been taken, but prior to a decision on the appeal, "will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner."

Accordingly, the appeal in this application is dismissed.

Appeal No. 2004-1936
Application 09/664,326

The application is being returned to the examiner for further action as may be appropriate.

Michael R. Fleming
Michael R. Fleming, Chief
Administrative Patent Judge
}

Gary V. Harkcom
Gary V. Harkcom, Vice Chief
Administrative Patent Judge
}

Demetra J. Mills
Demetra J. Mills
Administrative Patent Judge
}

BOARD OF PATENT
APPEAL
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